



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/464,582 12/16/99 LAURITZEN

N PPC-694

EXAMINER

QM12/1011

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KIDWELL, M

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

10/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/464,582

Applicant(s)

LAURITZEN, NELS

Examiner

Michele M. Kidwell

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3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 9 and 13 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (US 5,607,416).

With respect to claim 1, Yamamoto et al. (hereinafter “Yamamoto”) discloses an integral disposable absorbent garment that may be worn about a human lower torso comprising a suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4) wherein the suspension sling is suspendable in a wearer's crotch region (col. 5, lines 32 – 35) and a waist belt (2) capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region as set forth in col. 5, lines 21 – 35.

As to claim 2, Yamamoto discloses a suspension sling comprising a liquid permeable topsheet, liquid impermeable backsheet associated with the topsheet and an absorbent structure positioned between the topsheet and the backsheet as set forth in col. 3, lines 30 – 33.

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With regard to claims 3 and 4, Yamamoto discloses a garment wherein the suspension sling further comprises an elastic element disposed in at least one suspension sling side margin as set forth in col. 3, lines 51 – 61 and in figure 1.

As to claim 5, Yamamoto discloses the garment wherein the waist belt is elastically contractible as set forth in col. 4, lines 24 – 40.

With reference to claims 6 – 8, Yamamoto discloses the garment further comprising a waist belt attachment system as a pressure sensitive adhesive and a mechanical fastener as set forth in col. 4, lines 40 – 50.

As to claim 9, Yamamoto discloses the garment wherein the suspension sling distal end further comprises suspension sling fasteners as set forth in figure 1.

With respect to claim 13, Yamamoto discloses an absorbent garment that may be worn about a human lower torso comprising a waist belt having a first and second belt end (figure 3) with a first sling attachment location proximate the first belt end and a second sling attachment location disposed between the first and second belt ends (figure 1) and a disposable suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4) wherein the suspension sling is attachable to the first and second sling attachment locations of the belt in a manner to suspend the suspension sling in a wearer's crotch (figure 1) and the waist belt (2) is capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region as set forth in col. 5, lines 21 – 35.

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Regarding claim 14, Yamamoto discloses a garment wherein the second sling attachment location is disposed approximately midway between the first and second belt ends as set forth in figure 1.

As to claim 15, Yamamoto discloses a garment wherein the waist belt and suspension sling comprise a belt closure system as set forth in col. 4, lines 40 – 50.

With reference to claim 16, Yamamoto discloses a garment wherein the belt closure system comprises closure system elements (col. 3, lines 30 – 38) at least at the first and second sling attachment locations and proximate the suspension sling distal and proximal ends (figure 1).

With respect to claim 17, Yamamoto discloses a garment wherein closure system elements join the first sling attachment location to the suspension sling proximal end as set forth in col. 3, lines 30 – 38 and in figure 1.

Response to Arguments

Election/Restrictions

Applicant's election with traverse of claims 1 – 9 and 13 – 17 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that complete examination cannot be made of any individual group of claims without searching and considering the art in the other groups' classification. This is not found persuasive because the product as claimed can be used in a materially different process of using that product.

The requirement is still deemed proper and is therefore made FINAL.

Applicant's arguments filed July 26, 2001 have been fully considered but they are not persuasive.

In response to the applicant's argument that the Office Action fails to point to any disclosure in Yamamoto that its waist band has a first end secured to the pad member proximal end, the examiner refers to figure which shows a first belt end secured to the suspension sling proximal end and a second belt end (13b).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., having the waist band ends fastened at the side of the wearer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's argument that the Office Action fails to point to any disclosure in Yamamoto that its waist band has a first sling attachment location proximate the first belt end and that the pad member end is attachable to this attachment location, the examiner redirects the applicant to figure 1 which shows each end of the pad member being attached to the waist belt (1) proximate to the first belt end and (2) between the first and second belt ends. The point at which the pad member is attached to the waist belt is considered to the first and second sling attachment locations, respectively.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

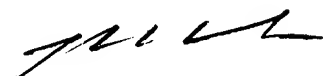
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-0858.

Michele Kidwell

Michele Kidwell
October 5, 2001



John G. Weiss
Supervisory Patent Examiner
Group 3700

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a)

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.